

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE MEMORANDUM

To: Permits Branch, OAM

From: Paul Dubenetzky, Chief
Permits Branch

Date: April 28, 1999

Subject: Coordinating Permit Review with EPA

IDEM OAM and U.S. EPA Region 5 have agreed that good communication will assist Region 5 to focus on environmentally significant issues in air permits and will help both agencies complete the permit review process in an efficient manner.

As you all know, the Title V Permit review process includes a 30-day period for review by the general public and affected states as well as a 45-day period for review by Region 5. For all practical purposes we have been treating these review periods as sequential events. The draft permit goes through the 30-day review period, it is revised as appropriate as a proposed permit, the proposed permit is provided to Region 5 for their 45-day review, and the permit is issued at that end of that review period.

Indiana's rules provide for the review periods to run concurrently under some circumstances and Region 5 provides for occasional "expedited reviews." The OAM and Region 5 have agreed to adapt those provisions and implement a new process so that permits can be routinely issued as promptly as possible after the conclusion of the public review period.

Overview of the New Review Process for Title V Permits

The OAM will provide Region 5 a copy of the draft permit at the beginning of the public comment period. Significant issues will be identified in accordance with the attached Criteria and Notification Procedures for Special Interest Permits. The OAM will provide Region 5 with a concise synopsis of any changes to the draft permit and recommend what action should be taken following the public notice. A brief overview of the recommendation for each scenario encountered following the public notice period is provided below:

Scenario **a**: No comments, no changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review;

Scenario **b**: Comments, no changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review;

Scenario **c**: Insignificant or straightforward changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review; or,

Scenario **d**: Substantial changes - the permit will be issued 45 days after proposed to Region 5 unless Region 5 indicates that the permit may be issued sooner.

Important Highlights of the New Process

OAM will notify Region 5 of any draft permits that might have significant issues at the beginning of the public review period.

Region 5 will use its discretion to review any draft permit, but will address those identified as significant during the 30-day comment period.

The OAM will prepare appropriate responses to comments received during the comment period or issues that we raise on our own and provide Region 5 with the proposed permit.

This guidance contains the following attachments:

Attachment 1: Agreement between IDEM and U.S. EPA

Attachment 2: Criteria and Notification Procedures for Special Interest Permits

Attachment 3: Title V Concurrent Review Protocol

Attachment 4: Approvals sent to EPA and associated review timeframes

**AGREEMENT BETWEEN THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5
TO
STREAMLINE FEDERAL REVIEW OF TITLE V AIR OPERATING PERMITS**

Goals:

Optimize the resources that the U.S. EPA focuses on individual permit review by identifying permits that involve significant environmental issues. Encourage productive communication between U.S. EPA and IDEM staff. Complete the permit review process and issue final permits as promptly as possible after conclusion of the public process.

Current Process:

U.S. EPA staff possess the most current version of Indiana's model permit & guidance and have been involved with its development. The IDEM has been providing for a thirty-day public and U.S. EPA review of draft permits followed by an additional forty-five day review by U.S. EPA when draft permit is revised subsequent to public notice. There has been ad hoc communication between U.S. EPA and IDEM staff regarding issues related to U.S. EPA-approval of permits.

Approach:

The IDEM and the U.S. EPA will use a defined communication process to improve the review of issues by both agencies and shorten the time necessary to take a final permit action.

1. The IDEM will use the attached Criteria and Notification Procedures for Special Interest Permits to identify significant permits warranting EPA review. IDEM supervisors will exercise judgement to raise issues not previously identified by the criteria. IDEM supervisors will notify U.S. EPA staff via email prior to making any draft permit meeting the criteria available for public review. The U.S. EPA will review these permits during the public comment period to the extent of their available resources while retaining the authority to review any permit.
2. At the time any draft permit is provided for local public notice, the IDEM will upload the draft permit and supporting documents to the U.S. EPA database and update the index.
3. EPA will review draft permits identified by IDEM as significant during the 30-day public comment period and communicate any issues on those, or any other draft permits to IDEM by the end of the comment period.
4. On or soon after the end of the public comment period the IDEM reviewer will notify U.S. EPA staff of the extent of public comment and the likelihood of substantial change in the permit.

5. The IDEM and the U.S. EPA will proceed to complete the review as expeditiously as possible depending on the issues raised during the public comment period and the extent of changes that IDEM recommends be made to the draft permit. The attached Title V Concurrent Review Protocol identifies the time frames associated with completing the review by the IDEM and the U.S. EPA.

6. If EPA grants expedited review, they will add language to the notice of expedited review that EPA's determination not to object to the permit does not affect the public's right to object to the permit, nor does it prohibit EPA from reopening the permit.

7. The IDEM and the U.S. EPA will work closely to improve the model permit by either clarifying existing language, adding conditions for applicable requirements that are not currently standardized, or adjusting conditions to more appropriately exercise the permit authority's discretion.

8. The IDEM and the U.S. EPA will refine the criteria, procedures, and protocols used to implement this agreement as necessary to improve communication, use of resources, and timeliness of sound permit decisions.

/s/

5/7/99

Janet G. McCabe, Assistant Commissioner
Office of Air Management
Indiana Department of Environmental Management

date

/s/

5/21/99

Richard C. Karl, Acting Director
Air and Radiation Division
U.S. EPA Region 5

date

Criteria and Notification Procedures for Special Interest Permits

The U.S. EPA reviews certain permits prior to issuance as part of their role of overseeing state permit programs. The OAM will be issuing hundreds of individual permits of various types over the next few years. The U.S. EPA will be provided an opportunity to review each one. Because oversight is not review every single permit, it makes sense to identify permits that could be of significant interest to the U.S. EPA.

Generally, Region 5 should be notified when the first Title V or FESOP for a specific industry type or a permit containing a New Source Performance Standard (NSPS) condition or a National Emissions Standard for Hazardous Air Pollutant (NESHAP) condition used for the first time is posted for review. In addition, Region 5 should be notified when every permit containing language regarding a new or controversial rule is posted for review. The table below lists specific categories of sources or issues within FESOP or Title V permits which will trigger the Region 5 special interest notification procedures discussed below. It should be noted that this list may not be all-inclusive, and we should use our judgment if additional issues are encountered which may warrant notification of Region 5.

Title V/FESOP Source Categories/Issues
First Permit for Municipal Solid Waste Landfills (NSPS)
First Permit for Utilities
First Permit with Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (NESHAP) Permit Language
First Permit for Sources with Wood Furniture Manufacturing Operations (NESHAP)
First Permit with Pressure Sensitive Tape and Label Surface Coating Operations (NSPS) Permit Language
First Permit for Medical Waste Incinerators (NSPS)
First Permit for Drycleaning Facilities (NESHAP)
First Permit for Sources with Halogenated Solvent Cleaning (NESHAP)
First Permit with Printing and Publishing Industry (NESHAP) Permit Language
First Permit for Sources with Polyurethane Foam Production (NESHAP)
First Permit for Sources with Any Other NESHAP Language
First Permit for Sources with Any Other NSPS Language
<i>Every Permit Involving a Change in the Emission Factor for a Process (affecting PSD applicability)</i>
<i>Every Permit Including Language Regarding a Compliance Schedule with Respect to Rule or SIP Revisions</i>
<i>Every Permit Involving the Issue of Whether Two Sources May Be One Major Source</i>

new or controversial rule is posted for review. The table below lists specific issues in NSR permits which will trigger the Region 5 special interest notification procedures discussed below. It should be noted that this list may not be all-inclusive, and we should use our judgment if additional issues are encountered which may warrant notification of Region 5.

NSR Permit Source Categories
<i>Every Source with CWOP/OWOP facilities with PTE > major NSR/PSD thresholds</i>
<i>Every Source With a Section 112(g) MACT Determination</i>
<i>Every Source Affected by a Change in Status to a Major Source (two or more sources combined into one major source)</i>
<i>First Few Sources Affected by the Federal Compliance Assurance Monitoring Rule</i>
<i>Every Permit Regarding a Compliance Schedule with Respect to Rule or SIP Revisions (e.g., RACT petitions)</i>
<i>Every Permit Being Issued with PSD Requirements</i>
<i>Every Permit with LAER/Offset determinations</i>
<i>Every Permit with complex netting</i>

Procedures for Notification

1. **Permit Reviewer:** If a permit reviewer encounters any of the issues described above or any additional issues which he or she feels require special notification of Region 5, the permit reviewer should record the type of issue and that the permit will require special notification of Region 5 on the “Additional Comments/Explanation” section of the Permit Summary Checklist.

2. **Section Chief:** When the draft Title V, FESOP, or NSR permit is approved by Section Chief, the section chief should send an e-mail to EPA that a permit with special issues will be made available for review soon, and that EPA may want to review it more closely. The e-mail should indicate the permit name and number, describe the issue, and indicate that EPA will be notified by Administration Section via e-mail when the permit is available on the Internet site for review. A copy of the notification e-mail to Region 5 should be sent to the Permit Administration Team Leader, John Rose, Paul Dubenetzky, and Doug Wagner. The subject line of the e-mail should begin with the phrase, “Special Interest Permit Notification...” to facilitate the notification process for the Permit Administration Section. In addition, a copy of the e-mail should be placed in the permit folder.

3. **Administrative Permit Managers:** When the draft Title V, FESOP, or NSR permit has been approved for EPA review by Paul Dubenetzky, the Administrative Permit Manager will e-mail the permit reviewer that the permit has been approved, and request electronic copies of the permit files. The Administrative Permit Manager will then upload the files to the IDEM OAM Internet site for Region 5 review, e-mail the Region 5 contacts that the permit is available for review, and include a copy of the e-mail sent previously by the section chief regarding the special issue.

Title V Concurrent Review Protocol

Overview:

Pursuant to 326 IAC 2-7-18(b) [Permit Review by EPA], the thirty (30) day public review period and the forty-five (45) day US EPA Region 5 (Region 5) review period may run concurrently. The following procedure discusses the review scenarios which may be encountered during the process of issuing a permit.

Following the 30-day public notice period, one of the following four situations will be encountered. The draft permit will be prepared for the proposal stage based on the situation.

Scenario a. No comments, no changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review;

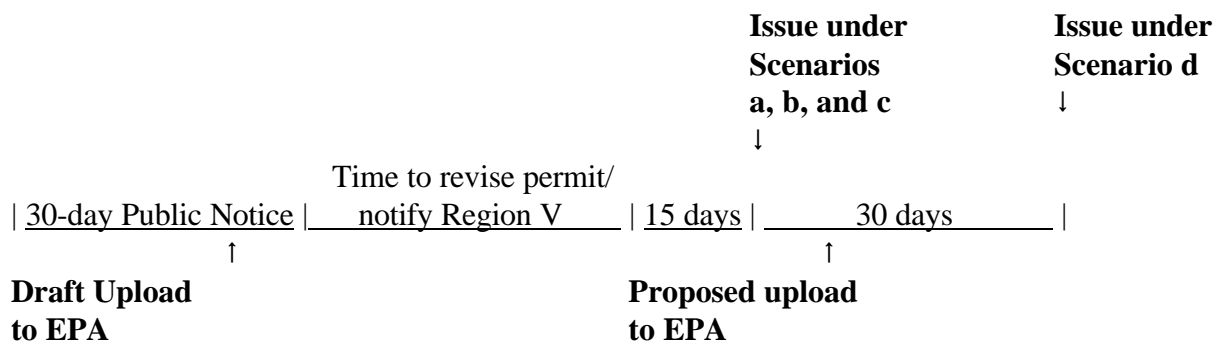
Scenario b: Comments, no changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review;

Scenario c: Insignificant or straightforward changes - the permit will be issued 15 days after proposed to Region 5 unless Region 5 asks for up to an additional 45 days for review; or,

Scenario d: Substantial changes - the permit will be issued after 45 days after proposed to Region 5 unless Region 5 indicates that the permit may be issued sooner.

The first two scenarios are exactly as provided in our existing rules. The second two are adapted. For any time that there is a need for Region 5 to extend the review period beyond the 15 days, they will apply appropriate diligence to review the issues and make their recommendation to us before the end of the 45-day review period.

The procedure is illustrated by the following schematic:



Detailed procedures for each scenario are provided below.

Detailed Procedures

1. When a draft permit is ready for public notice, the draft permit will be uploaded to the Internet site for Region 5 review, and the draft permit will be posted for the 30-day public notice period (note that these actions may or may not occur on the same day). IDEM will also update the index for the database so that EPA knows a new permit is there.
2. The section chief should follow the procedures in the attached Criteria and Notification Procedures for Special Interest Permits to ensure that Region 5 is notified of issues or conditions which may require closer review.
3. One of the following four situations will be encountered following the 30-day public notice period which will determine the end date of the EPA review period. **The Permit Reviewer will need to recommend to their Mentor/Section Chief the end date of the EPA review period, and should check with their Mentor/Section Chief if they have questions.**

Scenario a: OAM receives no comments from the public, any affected state, IDEM or EPA staff, or receives comments that are not based on an applicable requirement. IDEM makes no changes to the draft permit

End Date: Pursuant to 326 IAC 2-7-18(b)(1), EPA's review period will end 15 days after the proposed permit is uploaded to Region 5 unless Region 5 requests additional time. Region 5 has 15 days after the proposed permit is uploaded to notify the OAM if another full 45-day review period is required. Otherwise, OAM will issue the permit 15 days after Region 5 is notified that no revisions were made to the draft permit (15 days after proposed.)

Basis: No comments were received regarding the draft permit, and no revisions were made to the draft permit.

Scenario b: OAM receives comments from the public, affected state, or IDEM or EPA staff which are based on applicable requirements, but determines not to revise the permit.

End Date: Pursuant to 326 IAC 2-7-18(b)(2), EPA's review period will end 15 days after the proposed permit is uploaded to Region 5 unless Region 5 requests additional time. Region 5 has 15 days after the proposed permit is uploaded to notify the OAM if another full 45-day review period is required. Otherwise, OAM will issue the permit 15 days after Region 5 is notified that no changes were made to the draft permit (15 days after proposed.).

Basis: Describe the reason why the permit was not revised even though comments were received.

Scenario c. OAM receives comments from the public, affected state, or IDEM or EPA staff which are based on applicable requirements and revises the permit, but the revision is straight-forward. The following issues are examples of revisions which may be considered straight-forward:

- (i) Name changes;
- (ii) Emission units' descriptions, including, but not limited to units' IDs, stacks' IDs, and maximum capacities (if the new maximum capacities do not change the applicable rules);
- (iii) Rearrangement of the units or conditions to show logical flow of the permit;
- (iv) OAM's model permit changes (the content and effective date of the model changes will contribute to the evaluation of whether the permit model changes are to be considered under this scenario or not); and,
- (v) Additional straight-forward changes which the Permit Reviewer, Senior Staff Mentor, and Section Chief determine to be straight-forward upon examination (OAM will also have an ongoing open communication with Region 5 in evaluating the significance of the revisions made).

End Date: EPA's review period will end 15 days after the proposed permit is uploaded to Region 5 unless Region 5 requests additional time. Region 5 has 15 days after the proposed permit is uploaded to notify the OAM if another full 45-day review period is required. Otherwise, OAM will issue the permit 15 days after Region 5 is notified that only straight-forward changes were made (15 days after proposed.) (This scenario was not addressed in the 326 IAC rules.)

Basis: Describe the revisions made to the permit and explain that OAM feels that they are insignificant and that Region 5 should not require an additional full 45-day period to review the permit.

Scenario d. OAM receives comments from the public, affected state, IDEM or EPA staff which are based on applicable requirements and revises the permit, and the revisions are considered to be significant issues which may require more substantial effort to review than straight-forward type changes.

End Date: EPA's review period will end 45 days after the proposed permit is uploaded to Region 5. If Region 5 finishes the review sooner, OAM requests that Region 5 notify OAM following the procedures in this guidance so that the permit may be issued sooner.

Basis: Describe the revisions made to the permit and explain that OAM feels that they are significant. However, explain that if Region 5 finishes the review prior to the end of the 45-day period, Region 5 should notify OAM that the permit may be issued, following the procedures in this guidance.

In all scenarios, Region 5 should follow the procedures outlined in the "Region 5 Time Extension Notification" section of this guidance to notify OAM if additional time is necessary in scenarios a through c, or if a shortened review period is allowed in scenario d.

4. After working with their Mentor/Section Chief to determine an end date of the EPA review period, the Permit Reviewer will prepare the draft permit for the proposal stage. The Permit Reviewer will prepare a draft e-mail to Region 5, print it to accompany the folder, and save it in his/her work in progress folder so that it can be sent to EPA with the proposed permit. The draft e-mail should contain the following information:
 - (i) Company name and County location;
 - (ii) Title V Permit Number;
 - (iii) The end date of the 30-day public comment period;
 - (iv) The date the draft was uploaded to the Internet for Region 5 review (Check CAATs to determine the exact date);
 - (v) The end date of the EPA review period and an explanation for the basis for that date (the basis is provided in the detailed procedures, above);
 - (vi) The Permit Reviewer's phone number and e-mail address.
5. If comments were received during the public notice period, the Permit Reviewer will notify the person who provided the comments of the OAM's response due to the comments submitted. This notification will explain either (1) the reasons why the Title V was not revised (notify by an e-mail or TSD Addendum for Scenario **b**) or (2) the revisions that were made (notify by TSD Addendum for Scenarios **c** and **d**). Pursuant to 326 IAC 2-7-18(b)(2), the OAM shall notify an affected state making the comment in writing at or after the 30-day public notice period of (1) the determination not to revise the permit and the reasons or (2) the revisions that were made to the permit. Those commentators can be notified simultaneously with the Region 5 e-mail.
6. The Mentor and Section Chief will review the draft proposed permit. At this time, the Section Chief should check to see if Region 5 was notified of permits which contain special interest issues. If not, then follow the procedure in the attached Criteria and Notification Procedures for Special Interest Permits.
7. Paul Dubenetzky will review and approve the permit for proposal and send it to the Permit Administration Section.
8. The Permit Administrative Manager will send an e-mail to the Permit Reviewer that the permit has been approved by Paul, and requesting the electronic files.
9. The Permit Reviewer will attach the electronic permit files to the draft e-mail to Region 5 from step number 4 above, and forward it to the Administrative Permit Manager.
10. The Administrative Manager will forward the e-mail to Region 5 and upload the proposed permit to the Internet for review.

Region 5 Time Extension Notification

It is recommended that Region 5 e-mail the Permit Reviewer and copy the Section Chiefs with the following information when additional review time is required in Scenarios **a** through **c**, or when a shortened review period is allowed in Scenario **d**:

- Reason for extra review time (Scenario **a** through **c**) or notice that a full 45-day period is not necessary (Scenario **d**); and,
- Time frame for the extra review time, such as the specific number of days or the required full 45-day period (Scenarios **a** through **c**).

Region 5 E-mail Addresses

Sam Portanova: portanova.sam@epamail.epa.gov

Pallavi Reddy: reddy.pallavi@epamail.epa.gov

Kush Som: som.kushal@epamail.epa.gov

Approvals sent to EPA and associated review timeframes

Document	EPA review
Part 70 Permit	15 - 45 days, as described in Title V Concurrent Review Protocol
NSR/ Part 70	15 - 45 days, as described in Title V Concurrent Review Protocol
Administrative Amendment	send to EPA when final
Administrative Amendment and related permit documents incorporating a Title V source modification	15 - 45 days, as described in Title V Concurrent Review Protocol
Minor Permit Modification	15 - 45 days, as described in Title V Concurrent Review Protocol
Significant Permit Modification	15 - 45 days, as described in Title V Concurrent Review Protocol
Minor Source Modification	send to EPA when final
Significant Source Modification	send to EPA at draft and final
FESOP	send to EPA at draft and final
NSR/FESOP	send to EPA at draft and final
Administrative Amendment	send to EPA when final
Minor Permit Revision	send to EPA when final
Significant Permit Revision	send to EPA at draft and final
NSR/MSOP	send to EPA at draft and final
MSOP	send to EPA when final
Notice Only Change	send to EPA when final
Minor Permit Revision	send to EPA when final
Significant Permit Revision	send to EPA at draft and final
Registration	send to EPA when final
Notice Only Change	send to EPA when final
Registration Revision	send to EPA when final
SSOA	Do not send these to EPA